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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.          | CONFIRMATION NO.       |
|---|-------------|----------------------|------------------------------|------------------------|
| 09/910,206  | 07/20/2001  | Michael Beuten       | 10191/1873                   | 2708                   |
| <div>26646      7590      07/13/2007</div> <div>KENYON &amp; KENYON LLP</div> <div>ONE BROADWAY</div> <div>NEW YORK, NY 10004</div> |             |                      |                              |                        |
|   |             |                      | EXAMINER<br>RAMPURIA, SATISH |                        |
|   |             |                      | ART UNIT<br>2191             | PAPER NUMBER           |
|   |             |                      | MAIL DATE<br>07/13/2007      | DELIVERY MODE<br>PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

09/910,206

Applicant(s)

BEUTEN ET AL.

Examiner

Satish S. Rampuria

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 April 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

***Response to Amendment***

1. This action is in response to the amendment received on 04/23/2007.
2. This is a Non-Final action due to the objection to Specification and 101 rejections to claims 10-12 as described below.
3. Claims amended by Applicant: 1, 10, and 13.
4. Claims 1-14 are pending.

***Response to Arguments***

5. Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection (see the rejection below).

***Priority***

6. Acknowledgment is made again of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d). The certified copies have been received on January 17, 2002.

***Specification***

1. The disclosure is objected to because of the following informalities:  
Appropriate correction is required.
2. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: The specification fails to provide antecedent basis for the

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claim terminology "computer readable medium" introduced in the April 14, 2005 amendment.

***Claim Rejections - 35 USC § 101***

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 10-12 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 10-12 are directed to micro controller (Examiner interpreted as 'system') of functional descriptive material per se, and hence non-statutory. There are no indications or suggestions in the specification or claims that would associate the recited software components in the claims with hardware elements of the electronic device. The specification does not provide any definition for arrangement that would include a hardware element (Applicant's Specification page 9, lines 4-7). Further, claim 11 suggests that the control element "corresponds to" a form of a memory, but does not state that it is a memory. Finally, claim 12 defines the intended location for the hardware with which the control element is to be used, and thus does not resolve this deficiency.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-8, 10-11, 13-14 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 5,680,620 to Ross hereinafter called Ross.

**Per claim 1:**

Ross discloses:

- *A program stored in a computer readable medium, the program performing a method for monitoring an execution of another program that is executable on at least one microprocessor of a micro controller using a debug logic of the micro controller* (abstract, "in a microprocessor, a debug facility traps access to a peripheral device."), comprising:
  - *causing the debug logic to trigger an exception upon access to an specific address range during a program execution time* (col. 3 line 65 to col. 4 line 2 "application program specifies a breakpoint in the debug register circuit 13. The breakpoint is a trap or software exception that is triggered when a specified I/O or memory address accessed" and col. 4 lines 9-11, "Debug registers DR0-DR4 can each hold an I/O or memory address as a breakpoint (an specific address range));
  - *causing the at least one microprocessor to configure the debug logic* (col. 4 lines 10-13, "the condition for generating a debug exception in the Pentium microprocessor is specified in the Debug Control Register."), and
  - *causing the debug logic to execute an exception routine after the exception is*

*triggered during the program execution time (col. 3 line 65 to col. 4 line 2 "application program specifies a breakpoint in the debug register circuit 13. The breakpoint is a trap or software exception that is triggered when a specified I/O or memory address accessed);*

*- wherein the access to the specific address range includes access to an illegal storage area (col. 3 line 65 to col. 4 line 2 "application program specifies a breakpoint in the debug register circuit 13. The breakpoint is a trap or software exception that is triggered when a specified I/O or memory address accessed");*

*- wherein the debug logic and its registers (program 2) are operated in parallel to the program execution time (col. 5 lines 33-35, program 2 is another program such as a monitor power down program which is operating in parallel with program 1) to check a stack having the specific address range and an exception routine is set up in reaction to a break point event in the stack, so as to provide an secure stack check without using the program execution time of the microprocessor, wherein the debug logic monitors a program run (col. 3 line 65 to col. 4 line 2, specifically at col. 5 lines 6-12, "the register is accessed to determine the address which caused the interrupt.", col. 5, lines 25-27, "the interrupt handler routine then continues executing.", Note that the secure stack check is inherently done without using the program execution time of the microprocessor when the debug logic and its register are operated in parallel to the program execution time);*

*- wherein the debug logic monitors a program run (col. 4, lines 44-46 "This address is provided by the program desiring the monitoring, e.g., program 2 in FIG. 5A").*

**Per claim 2:**

The rejection of claim 1 is incorporated and further, Ross discloses:

wherein: the exception corresponds to an interrupt of the execution of the program (col. 3 line 65 to col. 4 line 2 "application program specifies a breakpoint in the debug register circuit 13. The breakpoint is a trap or software exception that is triggered when a specified I/O or memory address accessed").

**Per claim 3:**

The rejection of claim 1 is incorporated and further, Ross disclose:

wherein: the debug logic is configured during a startup of the micro controller (col. 3 line 65 to col. 4 line 2 "application program specifies a breakpoint in the debug register circuit 13. The breakpoint is a trap or software exception that is triggered when a specified I/O or memory address accessed". Note that the startup of the micro controller is inherently done without startup of microcontroller the breakpoint cannot be specified).

**Per claim 4:**

The rejection of claim 1 is incorporated, and further, Ross discloses:

- resetting the micro controller, starting up the micro controller again, and initializing the program (col. 4, lines 57-62 "After the system is initialized, the system transfers to a monitor mode of operation. During the monitor mode, as indicated by monitor step 108, the breakpoint register is monitored by processor 12 to determine whether the

breakpoint has been triggered, as indicated by the address location which is held as the breakpoint value being accessed”).

**Per claim 5:**

The rejection of claim 4 is incorporated, and further, Ross discloses:

- *storing at least a type of a fault in a memory storing at least a type of a fault in a fault memory before the micro controller is reset and started up again and before the program is initialized* (col. 4, lines 50-53 “at callback address step 104, the callback address of the routine to be called is stored within debug (fault) table 106 within memory 36”. Note that in computer environment faults are called ‘bugs’).

**Per claim 6:**

The rejection of claim 1 is incorporated, and further, Ross discloses:

- *storing a memory address that was accessed before an occurrence of the fault in the fault memory before the micro controller is reset and started up again and before the program is initialized* (col. 4, lines 50-53 “at callback address step 104, the callback address of the routine to be called is stored within debug (fault) table 106 within memory 36”. Note that in computer environment faults are called ‘bugs’).

**Per claim 7:**

The rejection of claim 1 is incorporated, and further, Ross discloses:



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- *the debug logic monitors whether the program accesses a preselectable address range of a memory during the program execution time* (col. 3 line 65 to col. 4 line 2 "application program specifies a breakpoint in the debug register circuit 13. The breakpoint is a trap or software exception that is triggered when a specified I/O or memory address accessed").

**Per claim 8:**

The rejection of claim 7 is incorporated, and further, Ross discloses:

- *wherein: the debug logic monitors whether the program accesses an address range of a stack of the micro controller beyond a preselectable maximum stack size during the program execution time* (col. 3 line 65 to col. 4 line 2 "application program specifies a breakpoint in the debug register circuit 13. The breakpoint is a trap or software exception that is triggered when a specified I/O or memory address accessed").

**Claim 10** is the apparatus (micro controller) claim corresponding to computer readable medium claim 1, and rejected under the same rationale set forth in connection with the rejection of claim 1, above, as noted above.

**Per claim 11:**

The rejection of claim 10 is incorporated, and further, Ross discloses:

- *the control element corresponds to one of a read-only memory and a flash memory* (col. 3 lines 19-21 "Nonvolatile memory 38 is e.g. a read only memory (ROM) which

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stores microcode including the basic input output system...system").

**Claims 13 and 14** are the apparatus (micro controller) claim corresponding to computer readable medium claims 1 and 2 respectively, and rejected under the same rationale set forth in connection with the rejection of claims 1 and 2 respectively, above, as noted above.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ross in view of US Patent No. 6,535,811 to Rowland et al., hereinafter called Rowland.

**Per claim 9:**

Ross does not explicitly disclose a code sequence of the program, swapped out from a flash memory of the micro controller into a random access memory of the micro controller, in the flash memory.

However, Rowland discloses in an analogous computer system a code sequence of the program, swapped out from a flash memory of the micro controller into a random access memory of the micro controller, in the flash memory (col. 5, lines 23-25

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"memory holding the executable code, typically some type of ROM, had to be swapped with a memory having the new executable code "burned in." and col. 5, lines 27-29 "flash memory 22 comprises a flash EPROM. Thus, executable code for the microcontroller can be rewritten as necessary").

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate the method of swapping the code between memories as taught by Rowland into the method of monitoring the program as taught by Ross. The modification would be obvious because of one of ordinary skill in the art would be motivated to swap the code between flash and RAM memories to read write the data control relationship during engine operation as suggested by Rowland (col. 2, lines 5-9).

9. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ross in view of Admitted Prior Art, hereinafter called APA.

**Per claim 12:**

The rejection of claim 10 is incorporated, and further, Ross does not explicitly disclose the micro controller is arranged in a motor vehicle.

However, APA discloses in an analogous computer system the micro controller is arranged in a motor vehicle (Applicant's specification, page 2, lines 4-5 "This type of micro controller is, for example, part of a controller for a motor vehicle").

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate the method of the micro controller is

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arranged in a motor vehicle as taught by APA into the method of monitoring the program as taught by Ross. The modification would be obvious because of one of ordinary skill in the art would be motivated to have the micro controller is arranged in a motor vehicle to provide the control of the internal combustion engine, the transmission, the steering assembly, the chassis, etc. as suggested by APA (page 2, lines 1-10).

### ***Conclusion***

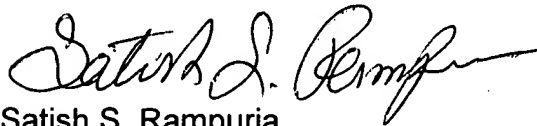
10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Satish S. Rampuria** whose telephone number is **(571) 272-3732**. The examiner can normally be reached on **8:30 am to 5:00 pm** Monday to Friday except every other Friday and federal holidays. Any inquiry of a general nature or relating to the status of this application should be directed to the **TC 2100 Group receptionist: 571-272-2100**

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Wei Y. Zhen** can be reached on **(571) 272-3708**. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Satish S. Rampuria", with a stylized flourish at the end.

Satish S. Rampuria  
Patent Examiner/Software Engineer  
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